

OSC Charge Referral Checklist

The anti-discrimination provision of the Immigration and Nationality Act, codified at 8 U.S.C. § 1324b, prohibits discrimination by any person or entity based on citizenship status, immigration status or national origin in the hiring, termination, recruitment/referral, and employment eligibility verification process. The provision also prohibits intimidation and retaliation against any person for asserting his/her rights under 8 U.S.C. § 1324b.

Your agency and the U.S. Department of Justice, Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) have entered into an agreement permitting the referral, in whole or in part, of certain employment-related discrimination charges received by your agency to the Office of Special Counsel for investigation. Before referring a charge to OSC, you must discuss the matter with the affected party and obtain that party's authorization for the referral.

This referral checklist is provided to assist you in identifying charges for possible referral to OSC. If the Charging Party has already filed a charge with OSC, please inform us of the parallel investigation by your agency, but do not refer the charge.

| REFERRAL CRITERIA | No | Yes |
|--|----|-----|
| Does the alleged discrimination relate to the actions of an employer or recruiter/referrer for a fee (e.g. a staffing agency)? | | |
| Did the alleged discrimination occur in connection with <u>ANY</u> of the following: <input type="checkbox"/> Hiring, firing (incl. constructive discharge) or recruitment/referral; <u>OR</u> <input type="checkbox"/> Actions to verify or investigate an individual's work authorization (e.g., Form I-9, E-Verify, background check, <i>etc.</i>), including the presentation or rejection of documents to prove work authorization | | |
| Were the alleged discriminatory actions potentially taken on the basis of the Charging Party's citizenship/immigration status or national origin or in retaliation against the Charging Party? | | |
| Did the employer or recruiter/referrer for a fee employ 4 or more employees on the date of the alleged discrimination?* | | |
| Was the charge filed with your agency within 180 days of the last act of alleged discrimination, or is the alleged discrimination potentially continuing? | | |

If you believe all of the above criteria *may* be met, this charge should be considered for referral to OSC. To refer the charge, please review OSC's referral procedures at www.justice.gov/crt/about/osc/pdf/Instructions.pdf and consult your agency's policies and procedures.

* Certain types of national origin charges should only be referred if the employer or recruiter/referrer employs fewer than 15 employees. To speak with an OSC representative about whether the charge should be referred, call OSC at **(202) 616-5594** (M-F, 9 am – 5 pm Eastern) and ask to speak with the Referral Duty Attorney. Questions about a referral may also be directed to OSCTReferral@usdoj.gov.

How to Make a Charge Referral to OSC

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| Where To Send A Referral | <p>A charge referral can be sent to OSC by:</p> <ul style="list-style-type: none"> • By electronic mail addressed to: OSCTReferral@usdoj.gov (preferred), • By facsimile transmitted to: (202) 616-5509 (if under 25 pages), or • By U.S. mail addressed to: <ul style="list-style-type: none"> U.S. Department of Justice Civil Rights Division Office of Special Counsel for Immigration-Related Unfair Employment Practices 950 Pennsylvania Avenue, NW (NYA) Washington, DC 20530 |
| What To Send With A Referral | <p>The following information and documents are requested with your referral to OSC:</p> <ul style="list-style-type: none"> • Case number assigned by your agency • Date charge was filed with your agency • Date of the alleged discrimination • Whether your agency will continue to investigate any aspect of the charge, and if so, which aspect(s) • Name and contact information of attorney or investigator assigned (if any) • Whether the charge has been filed or referred to another agency, and if so, the agency, point of contact, case number, and date filed (if known) <p>This information can be provided by completing the Office of Special Counsel Referral Transmittal Information Sheet (below) or via any other appropriate means.</p> |
| Getting Help | <p>To speak with an OSC representative about the referral process generally or to consult about this specific referral, call OSC at (202) 616-5594 (Monday-Friday, 9 am – 5 pm Eastern) and ask to speak with the Referral Duty Attorney. Questions about a referral may also be directed to OSCTReferral@usdoj.gov.</p> |

U.S. Department of Justice
Office of Special Counsel for Immigration-Related Unfair Employment Practices
Referral Transmittal Information Sheet

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|---------------------------|--------------|
| Name of Referring Agency: | City, State: |
|---------------------------|--------------|

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|----------------------------------|-----------------------------------|
| Matter Name Used By Your Agency: | Case No. Assigned By Your Agency: |
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|-------------|----------------------|------------------------------------|
| Date Filed: | Discrimination Date: | Charging Party's Primary Language: |
|-------------|----------------------|------------------------------------|

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|---|-------------------|-----------------|
| Name of Assigned Attorney/Investigator: | Telephone Number: | E-Mail Address: |
|---|-------------------|-----------------|

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| Will your agency continue to investigate any aspect of this charge? | Yes | No |
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If "Yes," identify what aspects of the charge remains under investigation by your agency:

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| Has the Charging Party filed a parallel charge with another agency? | Yes | No |
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| If "Yes," identify the agency receiving parallel charge: | City, State: | Case Number, if known: |
| | Point of Contact, if known: | Date Filed, if known: |

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| Has all or part of this charge been referred to another agency? | Yes | No |
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| If "Yes," identify the office/agency that received the referral and the nature of the referral: | City, State: | Case Number, if known: |
| | Point of Contact, if known: | Date referred: |

Accompanying Documents:

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|--------------------------|-------------------------|--------------------------|----------------------------|--------------------------|------------------------|--------------------------|----------------------|
| <input type="checkbox"/> | Agency intake documents | <input type="checkbox"/> | Charging Party submissions | <input type="checkbox"/> | Respondent submissions | <input type="checkbox"/> | Other, specify below |
|--------------------------|-------------------------|--------------------------|----------------------------|--------------------------|------------------------|--------------------------|----------------------|

Description of Additional Documents Enclosed:

Comments: